



**DEPARTMENT OF FAIR EMPLOYMENT  
AND HOUSING  
*ENFORCEMENT DIVISION*  
*DIRECTIVE***

**DIRECTIVE  
NUMBER  
204**

**DISTRIBUTION  
DATE  
October 1, 1998**

1. **SUBJECT: ACCEPTING COMPLAINTS NOT ON DEPARTMENTAL FORMS WHERE THE STATUTE OF LIMITATIONS IS A CONCERN**
2. **PURPOSE:** To set forth the procedures for safeguarding a complainant's right to file a complaint when the statute of limitations for filing is so imminent that the Department of Fair Employment and Housing (DFEH) intake forms cannot be completed.
3. **BACKGROUND:** On occasion, the initial contact with a complainant reveals that the statute of limitations will expire before the normal DFEH intake process can be completed. In these circumstances, the Department will file a complaint using a written statement from the complainant that is not on a DFEH complaint form (DFEH-300-01, DFEH-300-02, DFEH-300-03, or DFEH-300-04). However, pursuant to Government Code section 12960, certain elements must be contained in any filed complaint. This Directive describes those elements and provides procedures for filing complaints when time constraints prevent using the normal intake process.
4. **PROCEDURES:**
  - A. In those circumstances in which the complainant is not present in a DFEH office, the assigned Consultant will advise the District Administrator that, due to an expiring statute of limitations, the complainant's right to file a DFEH complaint may be jeopardized if a complaint is not filed immediately. The Consultant will obtain the District Administrator's agreement to use the emergency intake procedures contained in this Directive. The Consultant will then:
    - 1) Waive the normal intake process that involves viewing the group intake video, completing a Pre-Complaint Questionnaire (PCQ), and signing a DFEH complaint.
    - 2) Accept and date stamp a statement (refer to Attachment 1 - "Sample Statement") from the complainant that contains the following minimum elements:

- a) Complainant's name, address and telephone number;
  - b) Respondent's name, address, and telephone number;
  - c) A short statement identifying:
    - The date of the last act of alleged discrimination;
    - The alleged act of discrimination;
    - The complainant's protected basis;
    - That the complainant declares, under penalty of perjury under the laws of the State of California, that, to the best of his/her knowledge and belief, the foregoing is true and correct.
  - d) Signature of the complainant and the date signed.
- 3) Complete the top portion of the appropriate complaint form (Employment - DFEH-300-01 or Public Accommodation/Ralph/ Civil Code Section 54 - DFEH-300-02) based on the written communication and any information gathered by telephone and/or the telephone directory, as necessary.
  - 4) Type "SEE ATTACHED" in the "Particulars Are" section of the complaint form and in the signature area.
  - 5) Attach the complainant's statement to the DFEH complaint form and have the complaint entered in the computer, registered and served.
- B. These statements can be handwritten or typed by the complainant. Faxed statements are acceptable. DFEH will also accept these statements from a complainant's attorney as long as the complainant has signed the statement or submits a signed statement authorizing the attorney to sign on his/her behalf.
- C. After the complaint has been filed, the assigned Consultant will immediately interview the complainant and amend the complaint to comply with the Department's regular procedures. If the complainant presents new facts or raises new issues not initially included in the complaint statement, such may be included in the amended complaint,

as long as they are based on or relate back to the same facts contained in the original complaint.

5. **APPROVAL:**

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Nancy C. Gutierrez, Director

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Date

# **SAMPLE STATEMENT**

John Henry  
1234 North Elm Street  
Anytown, CA 99999  
(916) 222-3333

I wish to file against:

Howie's Bakery  
9876 East Oak Street  
Anytown, CA 99999  
(916) 555-6666

I believe that on August 1, 1997 I was terminated by owner Howard Smith because of my ancestry, Hispanic.

I declare under penalty of perjury, under the laws of the State of California, that, to the best of my knowledge and belief, the foregoing is true and correct.

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Signed

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Date